



NUMBER 13-19-00606-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

VALENTIN GAONA,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 214th District Court
of Nueces County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Perkes
Memorandum Opinion by Justice Nora Longoria**

Appellant, Valentin Gaona, attempts to appeal his conviction for capital murder.

We dismiss the appeal for want of jurisdiction.

This Court's appellate jurisdiction in a criminal case is invoked by a timely filed notice of appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Absent

a timely filed notice of appeal, a court of appeals does not have jurisdiction to address the merits of the appeal and can take no action other than to dismiss the appeal for want of jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998).

Sentence in this matter was imposed on April 25, 2008. The notice of appeal at issue was filed on November 25, 2019. On December 3, 2019, the Clerk of this Court notified appellant that it appeared that the appeal was not timely perfected. Appellant was advised that the appeal would be dismissed if the defect was not corrected within ten days from the date of receipt of the Court's directive. The appellant has not corrected the defect. Additionally, appellant had previously appealed this same conviction in this court in cause number 13-08-00364-CR.

Texas Rule of Appellate Procedure 26.2 provides that an appeal is perfected when notice of appeal is filed within thirty days after the day sentence is imposed or suspended in open court unless a motion for new trial is timely filed. TEX. R. APP. P. 26.2(a)(1). The time within which to file the notice may be enlarged if, within fifteen days after the deadline for filing the notice, the party files the notice of appeal and a motion complying with Rule 10.5(b) of the Texas Rules of Appellate Procedure. See *id.* 26.3. Appellant's notice of appeal, filed more than ten years after sentence was imposed, was untimely, and accordingly, we lack jurisdiction over the appeal. See *Slaton*, 981 S.W.2d at 210.

Additionally, on December 16, 2019, Appellant filed a request for court appointed counsel which this court construes as a Motion for Appointment of Counsel and a Motion for Production of Statement of Facts. These motions are both DISMISSED for lack of jurisdiction.

This appeal is DISMISSED for lack of jurisdiction. Accordingly, Appellant's Motion for Appointment of Counsel and Motion for Production of Statement of Facts and all other motions are hereby expressly DISMISSED for lack of jurisdiction.

NORA L. LONGORIA
Justice

Do not publish.
See TEX. R. APP. P. 47.2(b).

Delivered and filed the
9th day of January, 2020.